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Philadelphia Daily News

The Federal Communications Commission is probing whether big cable firms use special contract provisions to discourage media companies—from Walt Disney Co. to smaller firms—from running programming on the Internet. It is part of a broader attempt by the FCC to address one of the big conundrums of the telecom age: Why has television been so slow to come to the Internet, despite technical breakthroughs that made it possible long ago?

The FCC is expected to act soon to curb such contracts on the part of two big cable firms, Charter Communications Inc. and Time Warner Cable Inc., if the agency approves their merger. Consumer advocates hope that change would set a precedent that could eventually cover the industry as a whole. Despite the success of a few on-demand streaming services like Netflix and Hulu, the long-anticipated migration of familiar TV channels to the Internet, especially with real-time programming, has yet to unfold on any significant scale.

At issue are the contracts that pay-TV companies, mostly cable and satellite firms, sign with media companies such as television networks whose programming they carry. The cable firms often insist on inserting clauses that prevent the media companies from simultaneously providing their programs to an online provider, industry insiders say. In some cases, the contracts simply reduce the price the cable firms must pay for the programs if they are also available online, according to media firms.

The FCC recently invited several big media firms—including Disney, 21st Century Fox Inc. and HBO's parent Time Warner Inc. — to discuss their concerns about the clauses, according to public disclosures. 21st Century Fox and News Corp, owner of The Wall Street Journal, were until mid-2013 part of the same company. Fox declined to comment for this article.

The FCC is now weighing whether to approve a planned merger between Charter and Time Warner, two of the nation's largest cable companies. If the merger goes through, the FCC is widely expected to attach a condition that would limit the use of these contract clauses. The FCC appears particularly concerned because the merger would create a

A Senate race waiting to happen	company almost as large as industry leader Comcast Corp. The contract issue is "front-and-center for [the FCC], to prevent the two dominant firms from...blocking the expansion of online video stream competition," said Gene Kimmelman, president of Public Knowledge, a consumer advocacy group. Disney said in a summary of its meeting with FCC officials that they asked about ways the pay-TV contracts can inhibit online TV. "We submitted that the FCC should, of course, consider these issues" in the Charter-Time Warner Cable deal, Disney said. In their meeting with the FCC, HBO and its parent firm raised concerns about possible retaliation by Charter against firms that put their content online. HBO recently started its own Internet-based service, HBO Now. Public and private statements by Charter representatives "suggest that a combined Charter/Time Warner Cable would be inclined to take action directed at programmers" that decide to offer their programming online, HBO said in a publicly filed summary of the meeting. HBO declined to comment for this article. In a response filed with the FCC, Charter contended that "there is no reason to restrict" its ability to enter into the contract provisions, all of which "have widely accepted legitimate business purposes, especially in fluid and rapidly-evolving markets." Charter added that even if the concerns merit consideration, they aren't specific to the merger and instead should be addressed on an industrywide basis. Time Warner Cable declined to comment. Berin Szoka, president of TechFreedom, a market-oriented think tank, also criticized the FCC's focus on the contract clauses, saying they make economic sense. "Banning such clauses is simply part of a long-standing regulatory agenda for critics of cable, who happen to have enormous political sway over this FCC and a very compelling-sounding story to tell," Mr. Szoka said. "The real economics of the situation simply don't matter to them." The dispute isn't limited to media giants. A smaller firm, Herring Broadcasting, also has complained to the FCC about the contracts. The clauses have "stifled the rollout" of Internet-based TV, Charles Herring, the company's president, said in an interview. Herring Broadcasting produces a lifestyle channel called AWE (for "A Wealth of Entertainment") and has started a conservative news channel, OAN network. Some evidence suggests the restrictive clauses may have effectively kept many TV programs off the Internet. Several big tech companies have tried to start Internet TV services, but have found it hard to get programming because of the exclusivity provisions. One new online TV venture, Sling TV, a subsidiary of Dish Network, says it suffered months of delay because of challenges posed by the contract clauses. "When we launched Sling, one of the toughest things [was that] many of the programmers…had conditions in their programming agreements with other distributors that did restrict them in how they could license content," Roger Lynch, Sling's CEO, said in an interview. Charter says opponents of its merger have presented no evidence that its practices hurt the public. The company also says the contract provisions actually benefit media companies financially, because their content can run first on cable, then on the Internet. – ***Wall Street Journal*** The fight over net neutrality is entering a new phase, one year after the Federal Communications Commission approved the landmark Internet rules. Regulators are moving to develop new standards, even as critics push forward to have the courts or Congress curb or strike down the rules down entirely. Friday marked the one-year anniversary of the FCC vote adopting new rules ensuring that all Internet traffic is treated in the same way. The measure was approved on a party-line vote at the commission, highlighting a partisan fight that shows no signs of letting up. The rules sparked court challenges, left lawmakers scrambling to respond and the FCC with a complicated to-do list.

Under the rules, Internet service providers aren't allowed to slow down web traffic or block it entirely. They also can't let a website or service pay to speed up delivery of its content. FCC Chairman Tom Wheeler and other net neutrality supporters say it's key to protecting the open Internet as we know it. "Strong rules of the road have provided certainty for innovators & investors so [broadband] network deployment continues," he **tweeted** on Friday to mark the rule's anniversary.

But to get the authority to implement the rules, the FCC fundamentally changed the way they treat Internet providers under the law. That's drawn the ire of conservatives who see it as government overreach and have vowed to undo the rules. The debate is now focused on two questions: If the courts or Congress will block or temper the rules; and if not, how the FCC will implement them.

A federal court heard arguments last December in a industry challenge. A three-judge panel is weighing whether the FCC overstepped its powers when it reclassified Internet service to give it authority on the issue. And a new challenge to the rules came this week in the form of legislation from conservative lawmakers — including two presidential candidates — to repeal the regulations entirely. Sen. Mike Lee's (R-Utah) bill **says** the Internet rules would have "no force or effect" and would keep the FCC from enacting such measures in the future.

It's co-sponsored by Republican Sens. Ted Cruz (Texas) and Marco Rubio (Fla.) — both presidential candidates as well as Sen. John Cornyn (R-Texas), the No. 2 Senate Republican, among others. "So-called net neutrality leads to fewer choices, fewer opportunities, and higher prices for consumers," Cruz said in a statement. "If the FCC turns the Internet into a regulated public utility, the innovation and creativity that has characterized the Internet from its dawn will inevitably be stifled."

For now, the rules are in place, but some conservatives express hope that they could still be dealt a fatal blow on Capitol Hill, in the courts or by the next president's FCC. "I am optimistic," said Republican Commissioner Ajit Pai, a staunch and vocal opponent of the rules, in a speech at the Heritage Foundation on Friday. "Proponents of Internet freedom have opportunity after opportunity after opportunity to strike down President Obama's plan to regulate the Internet," he continued. "In contrast, regulatory activists must win every battle to stay the course. I like those odds."

Some on both sides of the fight have held out hope that lawmakers will reach a middle ground on net neutrality. Senate Commerce Committee Chairman John Thune (R-S.D.) and ranking member Bill Nelson (D-Fla.) say they are interested in pursuing compromised, but have failed to present legislation so far. While Congress looks for a path forward and lawyers press on in the courts, the FCC is ramping up its efforts to implement the rules.

Regulators must apply new privacy rules to Internet service providers, with the commission expected to put forth its approach in the coming months. That has already launched a heated battle between public interest advocates and industry groups. Industry representatives say that the rules should closely resemble how the Federal Trade Commission polices privacy — even as some say the agency has relatively limited powers when it comes to guiding industry.

Public interest groups counter that the FCC should take the opportunity to give itself stronger enforcement powers over powerful Internet providers. Wheeler hasn't given many clues on how he'll decide, but has said that privacy shouldn't be viewed as new ground for the agency. "Network privacy is something that we've always been involved in," he said at January's Consumer Electronics Show. One thing is clear, though, for both sides: the fight over net neutrality isn't going away. A court ruling could come this year, and the FCC could release its privacy plans as soon as next month. – ***The Hill***

Comcast Ventures, an arm of cable giant Comcast Corp., has dipped its toe in "Big Data" with a financial stake in Reston, Va.-based Zoomdata. Zoomdata can tap massive databases in real time and graph the results for easy analysis. Matt Carbonara, an investment professional with Comcast Ventures, said Zoomdata's analytic tools could be used in a cable comapny looking at its customer interactions, a credit-card company rooting out fraud or a regional health-care organizaton tracking patient care.

Databases have proliferated in recent years with the collapse of computer prices. Carbonara estimates that the amount of data available to businesses grows by 40 to 50 percent a year. But many times the information in those databases is difficult to access for companies looking to quickly mine it. Zoomdata seeks to solve this problem, he said. "Big data is disrupting consumer markets in every industry, including media and communications," Carbonara said. "Zoomdata is at the cutting edge of helping organizations make sense" of the information out there, he added.

Comcast Ventures, Accel, Columbus Nova Technology Partners and Razor's Edge participated in the latest $25-million round of financing for Zoomdata, which has now raised a total of $47.2 million since its launch in 2012. – ***Philadelphia Inquirer***